



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

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DISCONTINUANCE OF ATF FORM 5400.3, TRANSACTION RECORD FOR BLACK POWDER TO BE USED IN ANTIQUE WEAPONS

Explosives Licensees and Others Concerned

Purpose. This circular notifies explosives licensees that ATF Form 5400.3, Transaction Record for Black Powder to be Used in Antique Weapons, is no longer required. In addition, a review of the licensee's obligations under the applicable statutes and regulations is provided.

Elimination of Requirements. Effective immediately, ATF Form 5400.3 is eliminated. Explosives licensees and permittees distributing black powder in transactions qualifying under the exemption in 18 U.S.C. 845(a)(5) need not maintain sales records for such transactions. No revised form, recordkeeping or procedural requirement to replace ATF Form 5400.3 is contemplated. Obsolete provisions in the regulations will be deleted when 27 CFR Part 55 is next amended. Previously completed ATF Forms 5400.3 are subject to the 5-year retention period provided in regulations.

Obligations of Licensees. The black powder exemption in 18 U.S.C. 845(a)(5) states in substance that sales of commercially manufactured black powder in quantities of 50 pounds or less are exempt from regulation when the powder is intended to be used for sporting, recreational, or cultural purposes in antique weapons or antique devices. ATF Form 5400.3 served as an instrument to enable purchasers to identify themselves and to certify to licensees that the powder was intended for use in a manner which qualified for the statutory exemption. Despite the obsolescence of the form, licensees have an obligation under 18 U.S.C. 845(a)(5) to establish to their own satisfaction that purchasers acquiring black powder under the exemption intend to use the powder solely for exempted sporting, recreational, or cultural purposes.

The exemption applies to most retail sales of black powder. However, licensees are reminded that transaction records are required for non-exempt sales. For example, sales of black powder to non-licensees/non-permittees in quantities exceeding 50 pounds, or in any quantity when not intended for use as exempted in the law, require the completion of ATF Form 4710. In addition, other requirements in 27 CFR Part 55, unrelated to ATF Form 5400.3, continue to apply. These requirements include: (1) Storage of black powder by licensees in accordance with Subpart J or K; (2) Entries for black powder in the daily summary of magazine transactions (27 CFR 55.127); and, (3) Applicable inventory, receipt and disposition records (27 CFR 55.121 through 55.125).

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the office of the appropriate Regional Regulatory Administrator, Bureau of Alcohol, Tobacco and Firearms.

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